

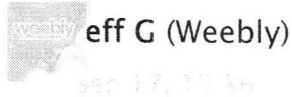
----- Forwarded message -----

From: **Weebly** <support@weebly.zendesk.com>

Date: Thu, Sep 17, 2015 at 4:36 PM

Subject: [Weebly] Re: Takedown Request Info

To: Annette Rodriguez <nnmcstudygroup@gmail.com>



Hi Annette,

Here is a complete copy of the DMCA request from June 15th:

Reported Site(s):

<http://www.nnmcstudygroup.org>

<http://www.nnmcstudygroup.org/blog/barcelo-takes-advantage-of-el-rito-normal-school-alumni>

<http://www.nnmcstudygroup.org/blog/federal-grants-tuition-hikes-legislative-appropriations-used-for-cost-of-name-change>

<http://www.nnmcstudygroup.org/blog/nnmc-students-scrooged-as-administrators-raise-tuition-to-line-their-own-pockets>

<http://www.nnmcstudygroup.org/blog/faces-of-those-we-have-lost>

<http://www.nnmcstudygroup.org/blue-sky-builders--ryan-cordova.html>

<http://www.nnmcstudygroup.org/blog/rash-of-faculty-resignations>

<http://www.nnmcstudygroup.org/uploads/1/7/6/4/17644239/1421155509.png?250>

<http://www.nnmcstudygroup.org/blog/crunching-the-numbers-on-president-barcelos-leadership>

Authorized Signature:

Ricky Serna

Vice President for Institutional Advancement

Northern New Mexico College

Infringed Work(s):

Identification of Northern New Mexico College's copyrighted photos infringed by NNMC Study Group.org on Weebly are listed here with individual urls from our Facebook albums.

All of our photos can be found in our Facebook albums at:  
<https://www.facebook.com/NorthernNewMexicoUniversity>

Blog post 6/3/15: "BARCELO TAKES ADVANTAGE OF EL RITO NORMAL SCHOOL ALUMNI"

<http://www.nnmcstudygroup.org/blog/barcelo-takes-advantage-of-el-rito-normal-school-alumni>

(this blog post shows infringement of our copyrighted photo(s).

Our copyrighted photo is here: [https://scontent.xx.fbcdn.net/hphotos-xfp1/t31.0-8/10955516\\_10152792123657791\\_2030911871035055070\\_o.jpg](https://scontent.xx.fbcdn.net/hphotos-xfp1/t31.0-8/10955516_10152792123657791_2030911871035055070_o.jpg)

Blog post: 3/5/15: "FEDERAL GRANTS, TUITION HIKES, LEGISLATIVE APPROPRIATIONS USED FOR COST OF NAME CHANGE"

<http://www.nnmcstudygroup.org/blog/federal-grants-tuition-hikes-legislative-appropriations-used-for-cost-of-name-change>

Our copyrighted photos are here:

1. From our 2013-14 Basketball Season Highlights:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152607878627791.1073741899.105488797790/10152607891352791/?l=1b6d13d098>

2. Current brand guide: [http://nnmc.edu/wordpress/wp-content/uploads/2012/08/BrandGuide\\_May-2015.pdf](http://nnmc.edu/wordpress/wp-content/uploads/2012/08/BrandGuide_May-2015.pdf)

3. From our Northern New Mexico Univ. Day album:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152607878627791.1073741899.105488797790/10152607891352791/?l=1b6d13d098>

4. From Arturo Madrid Collection Dedication album:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152621339647791.1073741903.105488797790/10152621339882791/?l=711c4e391c>

5. Basketball and athletic logo:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152375344402791.1073741888.105488797790/10152375346802791/?l=ee02801379>

6. From our Northern New Mexico Univ. Day

album: <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152607878627791.1073741899.105488797790/10152607879037791/?l=6ab5f19a50>

7. From our Northern New Mexico Univ. Day album:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152607878627791.1073741899.105488797790/10152609841447791/?l=da15360c82>

and related post: "BELOW: THE BEGINNING OF THE COST OF RE-BRANDING"  
This blog post contains the same copyright violations as the one above.

Blog post: 1/13/2015 CRUNCHING THE NUMBERS ON PRESIDENT BARCELO'S LEADERSHIP

<http://www.nnmcstudygroup.org/blog/crunching-the-numbers-on-president-barcelos-leadership>

Our copyrighted photo is here:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152410496737791.1073741891.105488797790/10152410500372791/?l=891983ea95>

Blog post: 12/22/15 "NNMC STUDENTS SCROOGED AS ADMINISTRATORS RAISE TUITION TO LINE THEIR OWN POCKETS"

<http://www.nnmcstudygroup.org/blog/nnmc-students-scrooged-as-administrators-raise-tuition-to-line-their-own-pockets>

Our copyrighted photos are here:

1. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151927337077791.1073741861.105488797790/10151930935952791/?l=3b12f8a409>

2. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151057591402791.420679.105488797790/10151057627567791/?l=5d8210414c>

3. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152230361172791.1073741881.105488797790/10152230362352791/?l=f5550e46d5>

Blog post: 7/16/14 "FACES OF THOSE WE HAVE LOST"

<http://www.nnmcstudygroup.org/blog/faces-of-those-we-have-lost>

Our copyrighted photos are here:

1. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151520438467791.1073741840.105488797790/10151520441912791/?l=df5db845ba>

2. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151539875177791.1073741842.105488797790/10151539876047791/?l=c4ac44758c>

3. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151767889717791.1073741855.105488797790/10151767890462791/?l=19deb0332c>

4.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151386141837791.1073741835.105488797790/10151420018347791/?l=761ca49a01>

5.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151370490087791.1073741828.105488797790/10151379007732791/?l=fa028e9a12>

6.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151539875177791.1073741842.105488797790/10151539876132791/?l=32369d7d3d>

7.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151378064707791.1073741832.105488797790/10151378069557791/?l=ea8be6a332>

8. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151767889717791.1073741855.105488797790/10151767890957791/?l=d2a7c5d0ed>

9. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151140496322791.431693.105488797790/10151140511337791/?l=8f3c4c89e4>

10. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151767889717791.1073741855.105488797790/10151767891332791/?l=6e90756f87>

11. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10150322023547791.337514.105488797790/10150322023707791/?l=c16e29a0f6>

12.

[http://www.nnmcstudygroup.org/uploads/1/7/6/4/17644239/4126570\\_orig.jpg](http://www.nnmcstudygroup.org/uploads/1/7/6/4/17644239/4126570_orig.jpg)

BLUE SKY BUILDERS AND NNMC MEN'S BASKETBALL COACH RYAN CORDOVA

<http://www.nnmcstudygroup.org/blue-sky-builders--ryan-cordova.html>

Our copyrighted photos are here:

1. <https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151057591402791.420679.105488797790/10151057627567791/?l=5d8210414c>

2.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151057591402791.420679.105488797790/10151057625942791/?l=1ac282063b>

3.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152410496737791.1073741891.105488797790/10152410499967791/?l=ffd0cfd6a>

4.

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.1015223036172791.1073741881.105488797790/10152230369407791/?l=f689f6e042>

6/19/2014 RASH OF FACULTY RESIGNATIONS

<http://www.nnmcstudygroup.org/blog/rash-of-faculty-resignations>

Our copyrighted photos are here:

1. Buttons:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151539875177791.1073741842.105488797790/10151539881482791/?l=73af86a800>

2. Trickster:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10152043679002791.1073741868.105488797790/10152043690497791/?l=b0947acac9>

3. New Faculty with banners:

<https://www.facebook.com/NorthernNewMexicoUniversity/photos/a.10151539875177791.1073741842.105488797790/10151539879597791/?l=c2c140adbb>

Reporting Party Contact Information:

Ricky Serna

Vice President for Institutional Advancement

Northern New Mexico College ([www.nnmc.edu](http://www.nnmc.edu))

921 Paseo de Oñate

Española, NM 87532

(505) 692-4465

[social@nnmc.edu](mailto:social@nnmc.edu)

Unauthorized Statement:

The copyrighted photos reported as violated in this DMCA Notification belong to Northern New Mexico College (NNMC). Our albums on Facebook are clearly marked "©NNMC, All rights reserved." Our photos have been used repeatedly by [nnmcstudygroup.org](http://nnmcstudygroup.org) on Weebly and other social media without asking our permission or the permission of persons in the photos.

Good Faith/Accurate Statement:

The information in this notification is accurate and, as Vice President for Institutional Advancement, I am authorized to act on behalf of Northern New Mexico College.

Thank you!

Jeff G

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Check out [help.weebly.com](http://help.weebly.com) for helpful articles or to chat with a live Weebly Customer Advocate

July 30, 2015

Weebly, Inc.  
Attn: Copyright Infringement  
460 Bryant Street #100  
San Francisco, CA 94107

Re: Digital Millennium Copyright Act (DCMA) Violation Claims  
<http://www.nnmcstudygroup.org/>

We, the publishers/editors/staff of the Northern New Mexico College Study Group (NNMC Study Group), the website of which, <http://www.nnmcstudygroup.org/> is hosted by your company, offer the following response/rebuttal to the DCMA complaint/claims submitted by Ricky Serna, who purports to be acting on behalf of Northern New Mexico College, a state educational institution and unit of state government in the State of New Mexico.

Our organization, the Northern New Mexico College Study Group, operates the aforementioned website as a news media outlet and does so in the public interest.

While your company has various legal responsibilities under the DMCA, those responsibilities only pertain to actual violation of a copyright or copyrights, piracy/illegal of intellectual property etc. No content of our website in any way violates any copyright or piracy/illegal use of intellectual property.

As a news media organization and otherwise, the NNMC Study Group vehemently disputes Mr. Serna's claim of "copyright infringement" as well as his authority to make claims on behalf of Northern New Mexico College—created by the New Mexico state constitution, and which is thereby subject to the statutes of the State of New Mexico. We also wish to draw your attention to the probable motives driving Mr. Serna's claims—motives which serve to discredit and render void those claims.

Additionally, we remind your company that that the news media are exempt from claims of copyright infringement in many instances according to "fair use" doctrines. Federal statutes providing copyright protection have applicability whatsoever to public records generated in the regular course of business by units of government such records are not subject to copyright by anyone.

Mr. Serna's complaint lists in his DMCA complaint not only to the home page of the NNMC Study Group website, but virtually all internal link pages at the NNMC Study Group website. Mr. Serna's complaint thereby claims that the entire content of the NNMC Study Group website, i.e. all items within it (text, photographs, videos graphics, reproduced/copied documents et al) are protected by supposed copyrights held by the college.

Please note once again that Northern New Mexico College is a unit of New Mexico state government.

The items at the NNMCSG website (not external links such as links to other news media or other external websites, but actual NNMCSG website content) fall into three general categories:

1. Items/content (text, photographs, videos, graphics, documents etc.) that belong to or are the work product (intellectual property) of the NNMCSG publishers/editors/staff; such items are therefore, not subject to any valid claim of copyright or ownership of intellectual property by the college nor Mr. Serna.
2. Items that are records generated during the regular course of business by the college (released per inspection of public records requests or taken from the college's main website) that are public domain since these items are public records under New Mexico law and are not subject to any claim of copyright or intellectual property ownership. These records are in the public domain by virtue of the New Mexico Public Records Act/Inspection of Public Records Act (IPRA) in and the NNMCSG obtained them directly from the college pursuant to the college's response to IPRA requests as required under New Mexico statutes (see below).
3. Items that appear at the college's Facebook pages that are A) in the public domain since those Facebook pages belong to the college and are therefore public records under New Mexico statutes, and B) are also in the public domain by virtue of Facebook policies; all of these items are in the public domain by virtue of their source (see below).

In his complaint, Mr. Serna refers to images from Facebook. As Mr. Serna is aware, photographs created by the college are public records and subject to the New Mexico IPRA as indicated above. In addition, photographs posted on the college's Facebook site are subject to the terms and conditions of Facebook, which gives Facebook a non-exclusive royalty free license for it--see "Facebook Terms of Use," point 1, <https://www.facebook.com/legal/terms>; in addition, the college has posted photographs to Facebook using the Public setting. For photographs or other content published with the Public setting, Facebook outlines the following:

When you publish content or information using the Public setting, it means that you are allowing everyone, including people off of Facebook, to access and use that information, and to associate it with you (i.e., your name and profile picture). (See "Facebook Terms of Use," point 4, <https://www.facebook.com/legal/terms>).

The references below should clear up any misunderstanding of Mr. Serna's mistaken and specious claim regarding purported copyrights of any NNMCSG website content that may originated with the college, but is in the public domain.

All such records are automatically in the public domain pursuant to the New Mexico Public Records Act/ New Mexico Inspection of Public Records Act (IPRA) NMSA 1978, §§ 14-2-1 *et seq.*

For quick reference, please note that the definition of a "public record" is found in the New Mexico Attorney General's IPRA compliance guide:



[A]ll documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business.

<http://www.nmag.gov/uploads/files/Publications/ComplianceGuides/Inspection%20of%20Public%20Records%20Compliance%20Guide%202015.pdf>

For further and more detailed guidance regarding the New Mexico Public Records Act/ Inspection of Public Records Act, please see the following.

From the New Mexico Public Records Act (Definitions):

G. “public records” means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein. Library or museum material of the state library, state institutions and state museums, extra copies of documents preserved only for convenience of reference and stocks of publications and processed documents are not included; **14-3-2 NMSA 1978**

From the New Mexico Inspection of Public Records Act:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978] is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees; **14-2-5 NMSA 1978**.

From the New Mexico Inspection of Public Records Act (Definitions):

A. “custodian” means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

B. “file format” means the internal structure of an electronic file that defines the way it is stored and used;

C. “inspect” means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;

D. “person” means any individual, corporation, partnership, firm, association or entity;

E. “protected personal identifier information” means:

(1) all but the last four digits of a:

(a) taxpayer identification number;



- (b) financial account number; or
- (c) driver's license number;
- (2) all but the year of a person's date of birth; and
- (3) a social security number;

F. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education; and

G. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained; **14-2-6 NMSA 1978.**

From the New Mexico Inspection of Public Records Act:

A. Every person has a right to inspect public records of this state except:

(1) records pertaining to physical or mental examinations and medical treatment of persons confined to an institution;

(2) letters of reference concerning employment, licensing or permits;

(3) letters or memoranda that are matters of opinion in personnel files or students' cumulative files;

(4) law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime. Law enforcement records include evidence in any form received or compiled in connection with a criminal investigation or prosecution by a law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed in this paragraph;

(5) as provided by the Confidential Materials Act [14-3A-1 and 14-3A2 NMSA 1978];

(6) trade secrets, attorney-client privileged information and long-range or strategic business plans of public hospitals discussed in a properly closed meeting;

(7) tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack; and

(8) as otherwise provided by law.

B. Protected personal identifier information contained in public records may be redacted by a public body before inspection or copying of a record. The presence of protected personal identifier information on a record does not exempt the record from inspection. Unredacted records that contain protected personal identifier information shall not be made available on publicly accessible web sites operated by or managed on behalf of a public body; **14-2-1 NMSA 1978**

None of the content found anywhere at the NNMCC Study Group website, which may originated with the college pursuant to the college's compliance with IPRA requests, falls under any of the exclusions of the New Mexico IPRA.

Any content of a state college operated/owned/maintained/sponsored website or website pages is, by definition, a public record and in the public domain according to New Mexico law (see above). The same principal applies to all websites/website pages similarly associated with any New Mexico unit of government.

Please be advised that the vast majority of the image, video, and document content on the NNMC Study Group website <http://www.nnmcstudygroup.org/> was either generated on public state property, during the course of public meetings (conducted pursuant to New Mexico Open Meetings Act), and/or in the course of inspections of public records (see above).

Please also be advised that a search of the copyright registry maintained by the Library of Congress contains no copyright registrations whatsoever filed by Northern New Mexico College.

Further, note that Mr. Serna is not authorized by the Northern New Mexico Board of Regents to take affirmative action regarding any claim (bogus or otherwise) related to copyrights, intellectual property or the DMCA.

Pursuit of a claim by the NNMC Board of Regents (all appointed by the governor and confirmed by the New Mexico state Senate) must proceed via direct action by the Board or on the Board's behalf by their legal counsel. According to New Mexico statutes, all college assets are under the direct control of the Board and any action related to such assets must originate with a resolution passed by the Board during an open meeting. The Board has passed no such resolution regarding any claim of copyright or regarding the NNMC Study Group website. Mr. Serna is not the college's (or the Board's) legal counsel. He is not an attorney.

Although Mr. Serna identifies himself, in his DMCA complaint to you, with his college title ("vice president for institutional advancement") he does not state in his complaint that he is actually representing the college in this matter.

Mr. Serna works at the college under a year-to-year contract approved directly by the Board (not any college executive such as the college president or another vice president). He works at the college at the pleasure of the Board, who are empowered to hire/terminate him at will.

Mr. Serna has most likely taken this affirmative action against a news media outlet (the NNMC Study Group and its website hosted by your company) without knowledge or authority of the NNMC Board. The four currently-sitting Board members are: Chair, Rosario Garcia, Melinda DeHerrera, Damian Martinez, and Kevin Powers with a vacancy caused by the resignation last winter of one of the five then-sitting Board members in protest over Mr. Serna's activities at the college. The governor has yet to name a replacement/fill that vacancy.

Please see Board contact information at: [http://nnmc.edu/wordpress/?page\\_id=4502](http://nnmc.edu/wordpress/?page_id=4502)

Such action against the NNMC Study Group by Mr. Serna is an example of an on-going campaign of harassment against any/all critics of the college. As evidence of on-going harassment, Mr. Serna is named as a principal in four pending tort-claim lawsuits against the

college (filed under the New Mexico “whistleblower” statute, which provides for additional penalties above and beyond standard tort-claims provisions.

A synopsis of each of these pending tort-claim/whistleblower district court cases against the college/Mr. Serna may be found at the lookup at New Mexico Courts case lookup website:  
<https://caselookup.nmcourts.gov/caselookup/app>

James R. Biggs v. Regents of Northern New Mexico College, D-117-CV-201400218  
Angelo Jacques v. Northern New Mexico College, D-117-CV-201400278  
Patricia M Perea v. Regents of Northern New Mexico College, D-117-CV-201500094  
Melissa R Velasquez v. Regents of Northern New Mexico College, D-117-CV-201500169

In another pending district case the college is attempting to thwart a company that had provided professional/consulting services to the college from pursuing action to force the college to honor its contract with that company and pay the company its claim outstanding debts of nearly \$1,000,000. The defendant in that case (the consulting company) has filed a counter claim in its pleadings in this case. Mr. Serna is a key witness in that case as he was intimately involved in this matter and has made numerous public statements to the news media about the underlying issues at hand.

This case is:

Northern New Mexico College v. Monument, LLC, D-117-CV-201500041

A synopsis of the pleadings in this case may also be found at the New Mexico Courts case lookup website.

Mr. Serna’s continued tenure at the college may well stem from advice to the college Board of Regents from their legal counsel that Mr. Serna’s circumstances of any departure from the college (termination of his employment) could provide the opposing parties in these cases with strategic advantages as the litigation proceeds, i.e. Mr. Serna’s potential departure could open up issues which those opposing parties could probe via discovery and subpoena—all to the disadvantage college’s legal position

The NNMCM Study Group and other news media have actively covered/investigated this legal quagmire in which the college and many of its senior staff are embroiled. The NNMCM Study Group has also investigated and obtained public records documents (not originating with the college) regarding a number of other district court cases in which Mr. Serna is a named party.

Indeed, a recent legal action, Mr. Serna brought his own action against one of the plaintiffs in the aforementioned tort-claim/whistleblower cases, Angelo Jacques. Mr. Serna sought a restraining order against Mr. Jacques. After bringing that action against Mr. Jacques, Mr. Serna, sought to quash subpoenas/demands for discovery, filed by Mr. Jacques’ attorneys, regarding *his own* (Mr. Serna’s) testimony and that of a named witness in this matter (Mr. Serna’s domestic partner, named in a city of Española Police Department report regarding the alleged incident).

A New Mexico First Judicial Second District Court judge denied Mr. Serna's motion to quash the subpoena/s limit discovery and then dismissed Mr. Serna's action outright with prejudice, as the case brought by Mr. Serna was clearly a matter of his harassment against a college critic and an attempt to intimidate the plaintiff in a pending case (tort claim/whistleblower lawsuit) before the court.

The online synopsis of this case may be found at the aforementioned courts case lookup website. The specific citation for this dismissed case is:

Ricky A Serna v. Angelo D Jacques, D-117-CV-201500158

Mr. Serna is clearly making his claims against the NNMCM Study Group as a tactic in his continuing campaign of harassment/intimidation against those who criticize the college and him, in his role as a college administrator in particular.

Such harassment is designed to chill the exercise of First Amendment rights by the news media and others. In addition, such harassment is integral to Mr. Serna's efforts to have Weebly disclose the identity of the website producers. (Because of Mr. Serna's harassment, we have paid to have the site privacy protected.)

As you may be aware, The Supreme Court has ruled repeatedly that the right to anonymous free speech is protected by the First Amendment (see Supreme Court ruling in *McIntyre v. Ohio Elections Commission*, 1995). The Electronic Frontier's Foundation, which has been monitoring the actions of Mr. Serna, has been involved in the fight to protect the rights of anonymous speakers online.

As one court observed in a case handled by EFF along with the ACLU of Washington, "[T]he free exchange of ideas on the Internet is driven in large part by the ability of Internet users to communicate anonymously" (<https://www.eff.org/issues/anonymity>)

Mr. Serna has also recently taken action to close the NNMCM Study Group Twitter account, and has taken action to remove Twitter accounts of *individuals* he believes are associated with the NNMCM Study Group. Mr. Serna's cyber stalking and cyber harassment demonstrate patterns of conduct (following, monitoring, surveillance), which are criminal offenses in violation of a New Mexico statute: see 30-3A-3 NMSA 1978.

Additional information regarding this statute can be found at:

(<http://law.justia.com/codes/new-mexico/2011/chapter30/article3A/section30-3A-3>).

In closing, may we remind you that misuse of the DMCA in the filing of bogus complaints may be construed as is a third degree felony under federal law.

The Digital Millennium Copyright Act (DMCA) directly addresses the take down of copyright infringed content from a website which is publishing content in violation of copyright protection, or content being used without permission. Neither is the case as the college is not a private entity

that holds copyrights. Indeed, the college is unable to “copyright” public records, as defined by New Mexico Public Records Act and which are available for inspection/copying under the New Mexico Inspection of Public Records Act.

It is clear that the claims by Mr. Serna of copyright infringement by the NNMC Study Group and the relief he seeks under the DCMA are:

- a) Unfounded given that the college is a governmental entity, given New Mexico Public Records Act/Inspection of Public Records Act IPRA, and given Facebook “Terms of Use”; are
- b) Unauthorized by the College Board of Regents, whose contact information is above, and; are
- c) No more than another element of harassment and evidence of a personal vendetta by Mr. Serna who is himself embroiled in those five pending district court case now in litigation in which the college and/or Mr. Serna are parties.

We urge Weebly to review the documentation on the [www.nnmcstudygroup.org](http://www.nnmcstudygroup.org) website, which provides newsworthy reports to the public as a news media outlet and which contains public records as defined by New Mexico statutes and/or are additionally within the public domain according to the Facebook “Terms of Use.”

We further urge you to consider the unauthorized claims to DCMA by Mr. Serna in the context of his continued and documented harassment, which has led to substantial pending litigation.

We are happy to answer any further questions or provide any further documentation at your request. We look forward to the reactivation of the <http://www.nnmcstudygroup.org/>, a news media outlet.

I, XXXXXXXXXXXXXXXXXXXX state, under penalty of perjury, that I as the subscriber have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled. As the subscriber, I consent to the jurisdiction of Federal District Court for the judicial district in which my address is located, and that I will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

Sincerely,

XXXXXXXXXXXXXXXXXXXX

Senior Editor, Northern New Mexico College Study Group

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

<http://www.nnmcstudygroup.org/>



## Jake Arnold

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**From:** Jake Arnold [JakeArnold@windstream.net]  
**Sent:** Wednesday, November 25, 2015 7:58 AM  
**To:** jakearnold@windstream.net  
**Subject:** Valley Daily Post--Unidentified Staff at Launch Edition Luncheon

From Los Alamos Daily Post (Online)

(NNMC Diversity Director Patricia Trujillo is unidentified woman on far left.)

## New Mexico's newest newspaper officially began operations today

by Editor / Mar 26, 2015



*Valley Daily Post publishers Carol A. Clark, center and Eric Vasquez, second from right, met earlier this year with members of Española's 'It Takes A Valley' community group to discuss the new newspaper. Courtesy photo*

## New Mexico's newest newspaper officially began operations today

**Staff Report**

**ESPAÑOLA** -New Mexico's newest newspaper officially began operations today. The Valley Daily Post, Inc. is an online publication co-owned by Eric Vasquez, the former REDI program manager for the Regional Development Corporation and Carol A. Clark, owner and publisher of the Los Alamos Daily Post.

Vasquez is running daily operations at the Valley Daily Post. He is married to Stephanie Garcia Richard, a teacher with Pojoaque Valley Schools and state representative for District 43.

"I was born and raised here in the Española Valley and I've long wanted to bring a new community focused newspaper like the Valley Daily Post to the area," Vasquez said. "It's a seven day a week online publication focused on community news that will provide coverage in the Española Valley from Pojoaque up to Peñasco. We want this to be the news hub for northern New Mexico and invite the community to submit local news, event announcements, photos, obituaries and Letters to the Editor to us at [www.valleydailypost.com](http://www.valleydailypost.com)."

Clark will continue to operate the Los Alamos Daily Post as well as oversee editorial content for the Valley Daily Post. She is an award winning journalist who worked for nine years at the Los Alamos Monitor, serving as managing editor September 2008 to January 2012, before leaving to start the Los Alamos Daily Post.

The Los Alamos Daily Post has experienced significant growth since its inception Feb. 7, 2012, and was honored March 9 by the New Mexico Legislature as the 2014 Business of the Year for Los Alamos. Los Alamos County is presenting the local online paper with a proclamation March 31 in honor of the paper's recognition at the state level.

"A few months after starting the Los Alamos Daily Post I began receiving requests from officials and community members in Española to create a similar newspaper in the Valley," Clark said. "I've been quite busy growing the Los Alamos Daily Post and the launch of the Jemez Daily Post last August in Jemez Springs. However, when Eric approached me with the idea of forming a partnership to create the Valley Daily Post; I felt that with our combined experience it really made a lot of sense."

Clark and Vasquez will soon announce a special community event in Española to celebrate the opening of the Valley Daily Post.